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THE DIGNITY OF LITIGATION.

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Xerxes, when the waters of the Hellespont destroyed his bridge of boats, ordered his men to punish the offending sea with three hundred lashes. Quite different would be the method of our modern engineers who first find out the laws of wind and wave, and then, in obedience to these laws build bridges that endure.

Emerson in one of his essays notices the fact that our fathers built their houses upon the hill-tops, and that their life was thus a constant struggle with gravitation. We put our houses in the valleys and gravitation becomes our servant, helping us to bring wood and water to our doors. It is not the monarch who defies nature that commands her powers with true kingly dignity, but the scientist who discovers and obeys her laws. Ours is a century of inventions, and every invention is obedience to a newly discovered law of nature. There is nothing ignoble or undignified in such obedience. On the contrary: in proportion as we obey nature's laws we become free and nature becomes our servant. Her laws are no longer bonds and limitations about us but the robes of our liberty. We are lords in nature's realm and the earth is "given to man for an inheritance." As in the domain of nature there is dignity in obedience to law, so in the sphere of social life there is dignity in obedience to the laws by which society lives and progresses. The laws of nature are only the ways in which nature works. We describe these *ways*, formulate them and call them "laws," as the laws of heat and light. So too the real laws of society are the *ways* by which communities live and thrive. Our laws to-day are a heritage of ways of social life, discerned and formulated by the reason and experience of many generations. And as thus constituting the best expression which humanity has been able to give of the principles of right relationship between man and man, they not only command our allegiance, but in obedience to them lies the path to the fullest freedom and power in all human relations.

It is when we approach the subject from this point of view that we are able to discern the true dignity and worth of *litigation*. It is more than a strife between parties, a battle wherein one

man's selfishness is arrayed against another man's selfishness. The word "litigation" does indeed mean a strife, a dispute; but it is a strife carried on in court under the protection and guidance of law; it is a dispute that is to be settled by no arbitrary tests; but by the fixed principles of equity. Litigation is the practical application of the law to specific cases. Its dignity then, is the dignity of the administration of law. Nay, it is also the dignity of liberty; for law rightly administered secures to each individual the largest personal freedom.

Perhaps the most satisfactory defense of litigation to the objections that are often raised against it, is in the fact that it is not only the privilege of the individual to seek its aid but also his duty to society. Inactivity in the presence of injustice is encouragement to wrongdoers, and constitutes a step backward into those dark ages when the principle "might makes right" prevailed. On the other hand, to avoid litigation by becoming the avenger of one's own wrong, the judge in one's own cause, would lead even more directly to that condition of rampant individualism from which society for centuries has been gradually emerging. Humanity has learned slowly yet surely that no man can live a wholly independent existence. Every man must be a member of society. It is his duty to serve society and the duty of society to serve him. By this law of service, which makes every man his brother's keeper, the world has been advancing. The more we bring our law and its administration into harmony with this highest known law of social welfare, the more universal will be the sway of justice, and the greater will be the service and dignity of litigation.

It is almost a truism in these days to remark that the great questions are the social questions. The troubles of society, the diseased places in its organic body, are the results of violations of social laws. To-day these evil consequences of broken laws are aggravated in various ways. The growth of population increases competition in the field of honest industry and seems almost to drive men into criminal life. The accumulation of wealth in the hands of unprincipled men breeds inequality between man and man. Even the great inventions which science in its obedience to the laws of nature has produced, seem likely to prove a curse unless they shall be used in obedience to the laws of social well-being. For it is by the aid of railroad and telegraph and other inventions that bad monopolies and untrustworthy trusts are enabled to injure the people.

In relation to these social evils and dangers the mission of the lawyer is that of a conservative reformer. While many groups of

of men banded together under various names, whether Nationalists or Anarchists, philosophers or economists, Christian Socialists or plain christian people are eagerly planning a campaign for the wholesale reorganization of society, there is an opportunity for the lawyer to step to the front of this army of reformers with a practical and present remedy for injustice, namely: the improvement of the law we have and of its administration. While then we are dreaming of Utopias to be realized in the twentieth century, let us not forget that there confronts us to-day the more practical question how even under our present system the ends of justice can most nearly be secured. And here is a vocation which litigation in its highest sense can alone fulfil.

But not only does the law constitute an effective instrument for the mitigation if not the cure of social ills; it also exerts a powerful educative influence upon the community. While the home, the school, and the church train up virtuous and intelligent citizens, these lessons are lost on many men, especially on those who come from foreign shores seeking our liberty but with no sense of its attendant responsibility and of the law in which it is grounded. For a large portion of the community litigation, the administration of law, is the only schoolmaster. The conscience of the masses is generally on a level with the courts under whose jurisdiction they are likely to come. The schoolmaster sets the standard for the school. In work and behavior the majority of pupils give what he requires. His ideals of what is necessary and true and kind largely determine their thought and conduct. Increase his efficiency and ennoble his character and you elevate the school. Something like this is the influence of the court upon the community. When the court is owned by the parties who ask its judgment, when juries can be bought, when lawyers can be hired to lie, when those who seek aid from the court are sharpers trying to cheat under cover of legal forms, then the popular conscience becomes hardened, falsehood displaces truth, and trickery is substituted for that straightforward dealing which is the foundation of all true business and social relations. Liberty glides into license, license breaks into anarchy and riot and lynch law usurp the functions of justice in the community. If then the court be the keeper of the popular conscience, to raise the standard here is missionary work indeed. And it is well that the spirit of criticism so strong among us in this nineteenth century is stimulating reform in our courts. There has indeed been some occasion for the charge that the law is too much a mosaic of precedents, not progressive, not up to the need of the time; that it is too technical,

that it is hidden away in a multitude of books, so that the time and labor required to dig it out makes litigation tardy and expensive, that the courts are tainted by politics, and influenced by the friendship or fear of wealth and organization. But this is only another way of saying that our methods are still imperfect; that our processes of litigation need to be purified, and that our laws need to be improved and systemized and made more accessible to the people. The rising sun though it gladdens much of our earth with its mellow light, leaves many places behind the hills and woods dark and cold. So too, with the administration of law. It does not yet—like the noon-day sun which bathes valley and hilltop, plain and woodland all alike in one flood of light—illumine every nook and cranny of social and business life, doing justice in all cases, enforcing every right and redressing every wrong. Injustice is renewedly the complaint of every generation; but each generation is more keenly sensitive to injustice than the one before it, and more earnest in its demand for justice. Herein is our hope, and as we review the history of a thousand years of progress we become certain that the administration of law is not a setting but a rising sun.

Here is the pledge that the law is destined to fulfil its vocation as a divine arbiter. For the church has no monopoly of divine justice. The old prophets in Israel were not only preachers but also the judges of their age. Only half their mantle has fallen upon the church; the other half has descended upon the court. To make the courts fulfil their mission, to perfect the law and purify its administration, to maintain and increase the dignity of litigation is the highest work of those who are called to serve as lawyers and judges. This work truly demands a consecrated ministry.